

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

September 17, 2002

**RESPONSIBLE STAFF:**

Mark DePoe, Planner

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
X	Policy Discussion
	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	8/14/2002
	8/21/2002
Hearing Date	9/03/2002
Record Held Open	9/11/2002
Policy Discussion	9/17/2002

**TITLE: CSP-02-004**

**Policy Discussion on CSP-02-004, Concept Plan for 525 S. Frederick Avenue.**

**SUPPORTING BACKGROUND:**

The applicant, Monica K. Pacheco, has submitted a Concept Plan application for 525 S. Frederick Avenue. The subject property is zoned CD (Corridor Development) and is located north of the East Deer Park Drive/S. Frederick Avenue (Route 355) intersection. The property contains approximately 0.24 acres or 10,396 sq. ft. and is surrounded by CD zoning to the north, south and east and S. Frederick Avenue to the west.

The application requests concept plan approval per Section 24-160G.6(c) of the Zoning Ordinance for property zoned CD. The applicant proposes that the use located on site be modified (change of use) to allow for an office use (Allstate Insurance office). Accordingly, site modifications are proposed while using the existing access location from S. Frederick Avenue.

The Mayor and City Council approved the comprehensive rezoning (Z-292) for designated properties along the Frederick Avenue corridor, which included the subject property, on June 25, 2001 and the subject property was rezoned to the CD Zone. For applicants seeking to develop, redevelop or improve property zoned CD without an approved schematic development plan shall file for approval of either a concept plan or a SDP pursuant to the procedures of Section 24-160G.6. The City Council shall conduct a public hearing and either approve the concept plan, with or without conditions or require the applicant to file a schematic development plan pursuant to Section 24-160G.5(b).

The Mayor and Council held a public hearing on September 3, 2002 and closed the record as of September 11, 2002. After the Mayor and Council hold their policy discussion, Staff has provided a resolution for the concept plan CSP-02-004 for the Mayor and Council to review. The Mayor and Council, if they desire, may decide to adopt the resolution as provided or as amended.

**Attached:**

Exhibit 1: Draft Resolution

Exhibit 2: Aerial Photo

Exhibit 3: Site Plan and Site Photos

**DESIRED OUTCOME:**

Hold Policy Discussion. If Mayor and City Council Desires, Adopt Resolution for CSP-02-004.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE MAYOR AND COUNCIL OF GAITHERSBURG  
GRANTING CONDITIONAL APPROVAL OF CONCEPTUAL PLAN  
CSP-02-004 FOR OFFICE USE AND PERSONAL SERVICE USE  
AS A HAIR SALON LOCATED IN THE CD ZONE AT 525 SOUTH  
FREDERICK AVENUE, GAITHERSBURG, MARYLAND.

**CSP-02-004**

OPINION

This proceeding constitutes an action pursuant to §24-160G.6 of the Zoning Ordinance (Chapter 24 of the Gaithersburg Code) which permits the Mayor and City Council to review and approve a concept development plan in the CD (Corridor Development) Zone; and further, Sec. §24-160G.7 in which the Mayor and City Council can approve a concept development plan only after certain findings have been made.

The subject property is located at 525 South Frederick Avenue, Gaithersburg, Maryland, in the CD (Corridor Development) Zone.

Operative Facts

The site contains a 2,015-sq. ft. two-story structure, which is located to the front and center of the site. The site has one access point from Route 355. The original use of the property was personal service use (hair salon) on the first floor and residential use on the second floor. The property was subdivided by deed only; therefore, there is no recorded subdivision plat.

After the submission of a building permit for interior renovations and exterior construction, Staff became aware of an office use for Allstate Insurance being operated at the subject property. The property owners were never given an approval to operate an office use at 525 S. Frederick Avenue. The permits were put on hold and the property owner was informed to cease and desist any and all work on the property. The property owner was informed of the change of use occurring on-site and the required concept plan process, per Section 24-160G. On March 15, 2002 the occupant of the subject property was served an official notice to correct violations to remove an illegal banner on-site for Allstate Insurance.

Staff has meet with the applicant on numerous occasions in which the applicant was explained the process and told that no work on the structure or the property could occur without the proper approvals from the Mayor and Council, the Planning Commission, and building permits as per the Zoning Ordinance and the City Code. In addition, the Planning and Code Administration staff has performed an inspection of the property for the proposed hair salon and office and found several issues of non-compliance. If the Mayor and Council and Planning Commission approve the proposed plan, several corrections will need to be made in order for occupancy to be granted.

A public hearing was held on site plan CSP-02-004 on Tuesday, September 3, 2002 and before the Mayor and City Council in the Council Chambers at City Hall. The hearing had been

advertised in the *Gaithersburg Gazette* on August 14 and 21, 2002, the required parties given notice, and the property posted per Section 24-196 of the City Code.

Planner DePoe, of City staff, testified that the application requests approval of a Concept Site Plan (CSP), located at 525 South Frederick Avenue, for a change of use to general office. Planner DePoe explained that the property is zoned CD and a request for a change of use requires the review and approval of the Mayor and City Council. He then introduced Mr. Mike Mirtaghavi, of Land Plan Associates, as the representative for the Mrs. Monica K. Pacheco, the applicant and property owner.

Mr. Mirtaghavi introduced the proposed concept plan for a change of use within the existing building at 525 South Frederick Avenue on approximately 10,396 square feet of land. The subject property is located east of East Deer Park Drive on the east side of South Frederick Avenue in the Corridor Development (CD) Zone. Mr. Mirtaghavi further explained the proposed concept plan layout which consisted of the existing building located in the front center of the site, one access point from MD Route 355 leading to a parking area located behind the house, the removal of asphalt in front of the existing building and throughout the site to reduce the amount of impervious area, streetscape improvements consistent with the Frederick Avenue Master Plan and the CD Zone requirements, and additional landscaping throughout the site.

The Mayor and City Council reviewed the conceptual plan submitted by the applicant. There were no comments from the public. The Mayor and City Council questioned the square footage of the building, change of use, adequate parking and whether the applicant was proposing to alter the existing structure. Planner DePoe explained that the building will remain the same square footage with adequate parking and that the change of use is to allow general office use on the first and second floor for Allstate Insurance and to a hair salon use also on the first floor. Mr. Mirtaghavi explained that the applicant was not proposing any change to the exterior of the building with the exception of adding stairs to access the second floor to meet building code requirements and a ramp for handicap accessibility. The Mayor and City Council The Mayor and Council closed the record as of September 11, 2002.

The Mayor and Council held a policy discussion on September 17, 2002. Planner DePoe stated that there have not been any changes to the plan since the public hearing and that staff has recommended seven (7) conditions of approval for the concept plan CSP-02-004. The conditions of approval address the concerns of the Mayor and City Council from the public hearing and address City staff concerns regarding site requirements. The City Council concurred with the conditions recommended by staff and adopted the resolution approving concept plan CSP-02-004 with the recommended seven (7) conditions on January 7, 2002.

#### Relevant Statutory Provisions

The following statutory provisions from the City Zoning Ordinance (Chapter 24 of the City Code) are among the provisions, which define the nature of the City Council's review powers for applications in the CD Zone and the extent of the City Council's oversight.

#### **Sec. 24-160G.6. Procedure for application and approval.**

Procedure governing an application for the CD Zone and approvals necessary to seek building permits shall be subject to the following process:

- (c) *Applications for concept plan approval or schematic development plan approval only.* Applicants seeking to develop, redevelop or improve property zoned CD without an approved schematic development plan shall file for approval of either a concept plan or a schematic development plan pursuant to the procedures hereinafter provided.
  - (1) *Concept plan approval only.*
    - (a) An applicant shall file together with the prescribed application fee a concept plan, scaled at one-inch equals fifty (50) feet, and shall contain the information and items described in the concept plan checklist established by the City Manager or his/her designee.
    - (b) The concept plan shall be subject to the same public hearing notification procedures as required for local map amendments.
    - (c) The City Council shall conduct a public hearing and either approve the concept plan, with or without conditions or require the applicant to file a schematic development plan pursuant to Section 24-160G.5(b) of this chapter.
    - (d) Should the City Council approve the concept plan the applicant shall thereafter submit an application for final site plan approval directly to the City Planning Commission.
    - (e) The City Council decision shall be in the form of a written opinion and resolution.

#### **Sec. 24-160G.7. Findings required.**

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- (b) The City Council may approve a schematic development plan or concept plan only upon the finding that:
  - (1) The plan is substantially in accord with architectural, signage, lighting, streetscape, parking and other regulations, requirements and guidelines adopted by the City Council for the applicable corridor area.
  - (2) The plan meets or accomplishes the purposes, objectives and minimum standards and requirements of the zone; and
  - (3) The plan is in accord with the area master plan and any accompanying special condition or requirements contained in said master plan for the area under consideration; and

- (4) The plan will be internally and externally compatible and harmonious with existing and planned land uses in the CD zoned area and adjacent areas; and
- (5) The existing or planned public facilities are adequate to service the proposed development contained in the plan; and
- (6) The development staging or phasing program if any, is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and
- (7) The plan, if approved, would be in the public interest.
- (8) The existing buildings with historic significance are considered for preservation and retention pursuant to the City's Historic Preservation Ordinance.

#### Evaluation of Arguments, Evidence, and Findings

The City Council reviewed the evidence of record in this case, which included the application, concept plan, staff report, related excerpts from the Frederick Avenue Corridor Plan, and public hearing testimony.

The City Council has reviewed Conceptual Plan CSP-02-004 per Section 24-160G.7 to determine whether or not the proposed commercial use is permissible. The City Council finds that:

1. The plan meets and accomplishes the purposes, objectives and minimum standards and requirement of the zone. The CD Zone encourages renovation of declining or underutilized properties along the corridor. The property contains an underutilized single family dwelling unit and the proposed plan is for the renovation of the structure to allow for office use for Allstate Insurance and personal service use as a hair salon; and
2. The plan will be internally and externally compatible and harmonious with the existing land uses in the CD zoned area and adjacent areas in terms of nature and density of use. The master plan recommends residential-office uses and the property currently abuts multifamily residential uses; and
3. The property will provide for one access point to MD Route 355 and parking to the rear of the site. The existing or planned public facilities are adequate to service the proposed development contained in the plan;
4. The plan is in the public interest due to the fact that the site will provide for less impervious area and the property is currently underutilized.

#### Conclusion

Upon consideration of all the evidence pertaining to Concept Plan CSP-02-004, the City Council concludes that the applicant meets the requirements of the CD Zone and the Frederick Avenue Corridor Plan.

## RESOLUTION

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Gaithersburg, on the 17th day of September, 2002, that the Concept Plan CSP-02-004 is hereby approved pursuant to Section 24-160G subject to the following conditions:

1. The applicant is required to obtain approval and an access permit from the State Highway Administration for access to the site along Route 355.
2. Neon signage, strings of lights (except approved holiday decorations) or pennants facing any exterior area is prohibited.
3. The display or storage of any material and merchandise outside the building and/or in any yard is prohibited.
4. All vehicles shall be parked in the rear parking lot. No vehicles associated with the business (including, but not limited to, commercial vehicles, customer vehicles, owner and employee vehicles) shall be permitted to be parked in the front or side yards.
5. Provide additional landscaping along the front of the property and provide additional frontage improvements as recommended in the CD Zone and the Frederick Avenue Corridor Plan to be approved by Staff and the Planning Commission.
6. Provide a record plat to be reviewed and approved by the City Planning Commission and recorded in the land records of Montgomery County.
7. Stormwater Management for the site must be provided in accordance with the most recent MDE SWM Design Manual. The City of Gaithersburg Department of Public Works Parks Maintenance and Engineering (PWPME) must approve the location of the SWM facilities, if required.

ADOPTED, by the City Council of the City of Gaithersburg, on the 17th day of September, 2002. Councilmembers Alster, Edens, Maraffa, Schlichting, and Somerset being present and voting in favor of the action.

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Sidney A. Katz, Mayor  
President, City Council

THIS IS TO CERTIFY that the foregoing resolution was adopted by the City of Gaithersburg City Council in a public meeting assembled on the 17th day of September, 2002.

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David B. Humpton  
City Manager

Aerial Photo ©2001 VARGIS, LLC Herndon VA. All rights reserved.  
Property boundaries ©2001 M-NCPPC and City of Gaithersburg.  
Aerial photo acquired March-April 2000.



1 inch equals 97 feet

70 0 10 70 Feet

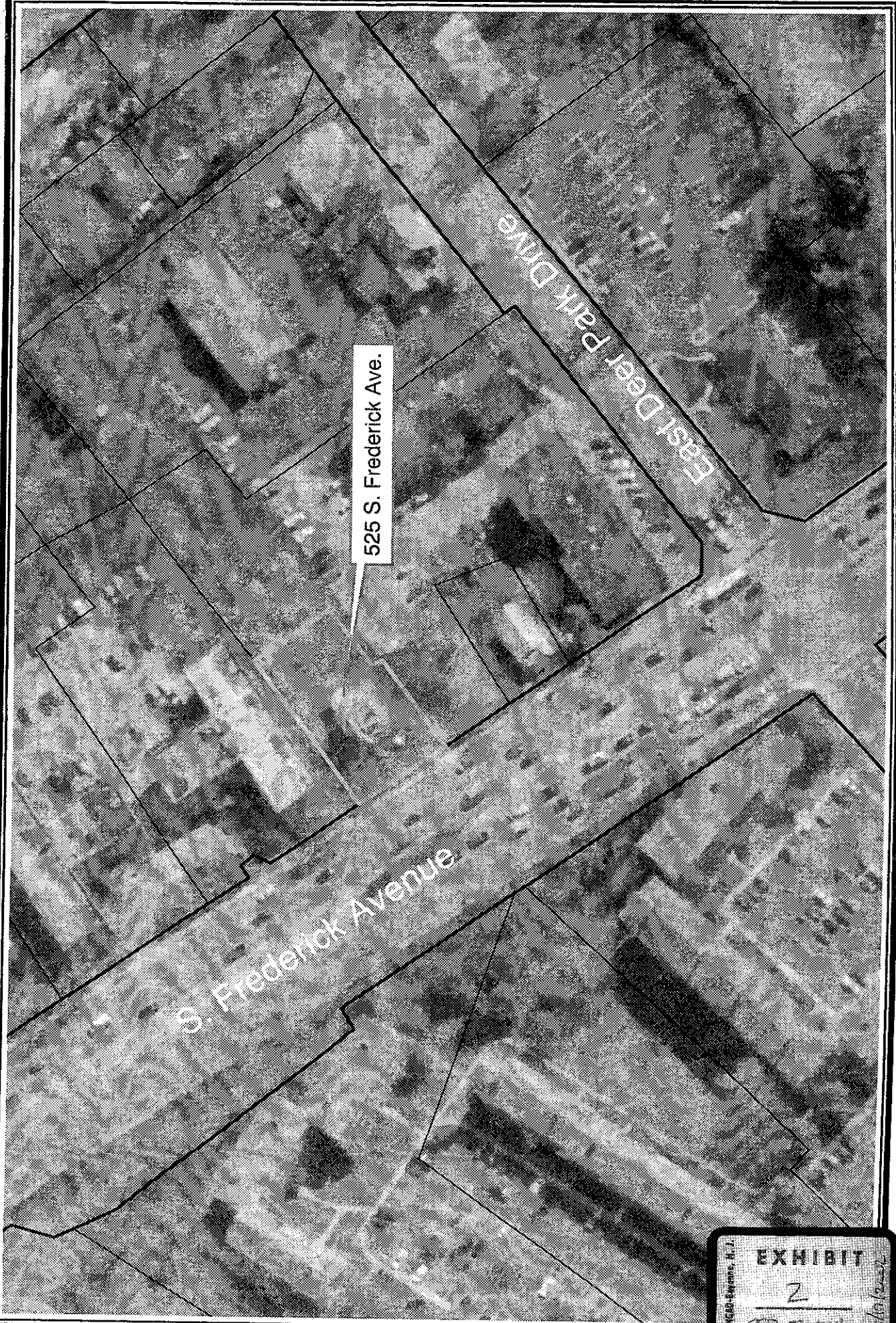
MD State Plane  
HPGN NAD 83/91

10 0 10 Meters

The City of Gaithersburg makes no warranty, express or implied, for the completeness and accuracy of the information depicted on this map. This map may not be reproduced, in whole or in part, without the express written permission of the City of Gaithersburg and other referenced parties.

City of Gaithersburg  
City Manager's Office  
31 S Summit Ave  
Gaithersburg, MD 20877  
www.cityofgaithersburg.net

ProjectName.mxd · 27-Dec-2001 · jhe



525 S. Frederick Ave.

S. Frederick Avenue

East Deer Park Drive

EXHIBIT  
2  
08-02-001



Q10702

EXHIBIT

2

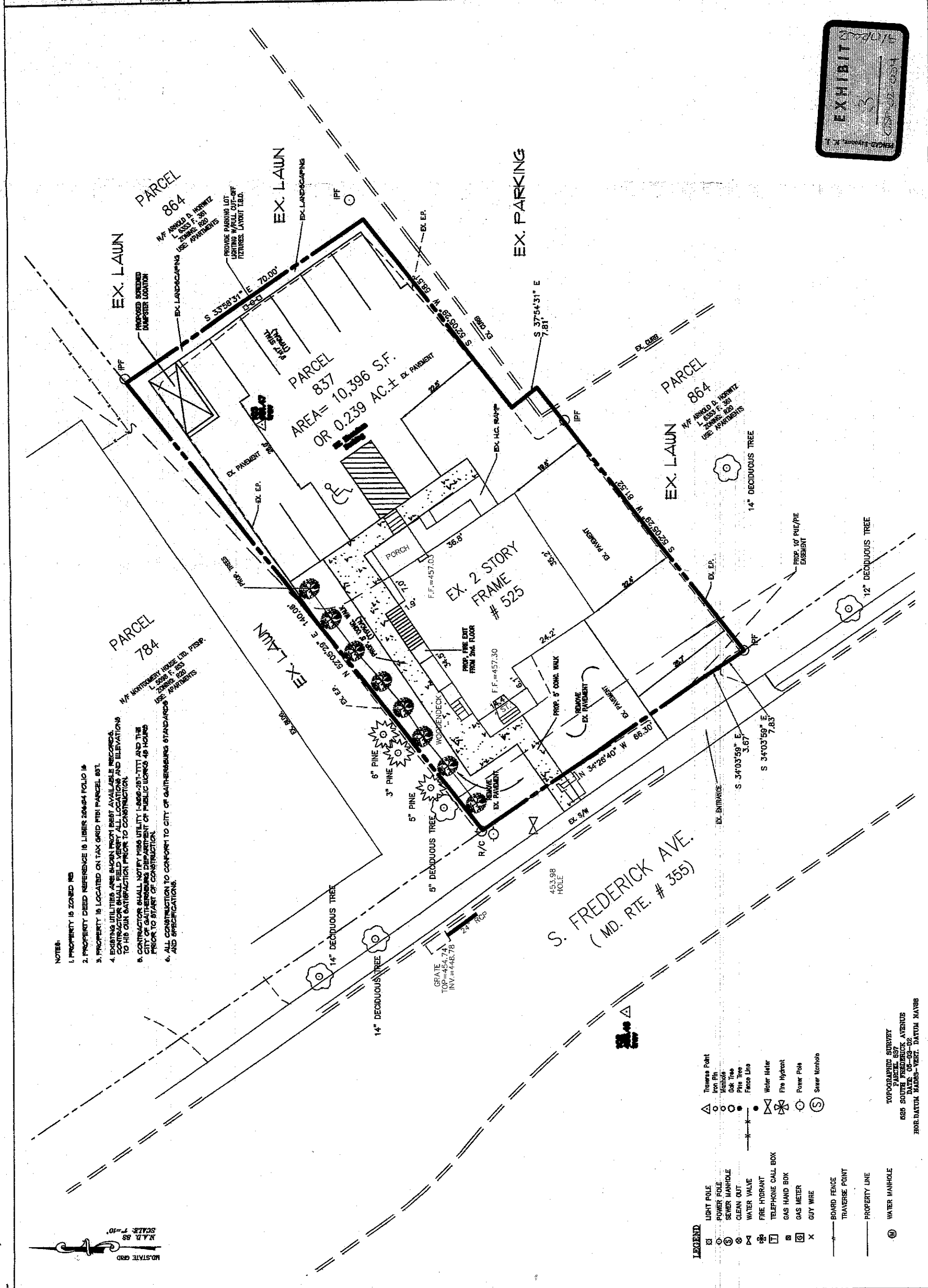
FBI

PERCIVAL L. LYNCH, L. I.

ALANTINE GARDENS  
PARCEL 837  
CITY OF GAITHERSBURG, 8TH DISTRICT  
MONTGOMERY COUNTY, MARYLAND

## PROPOSED SITE PLAN

<u>No.</u>	<u>Date</u>	<u>Description</u>
M.M.	CADD	<u>Drawn</u> <u>Approved</u> JUNE 2002





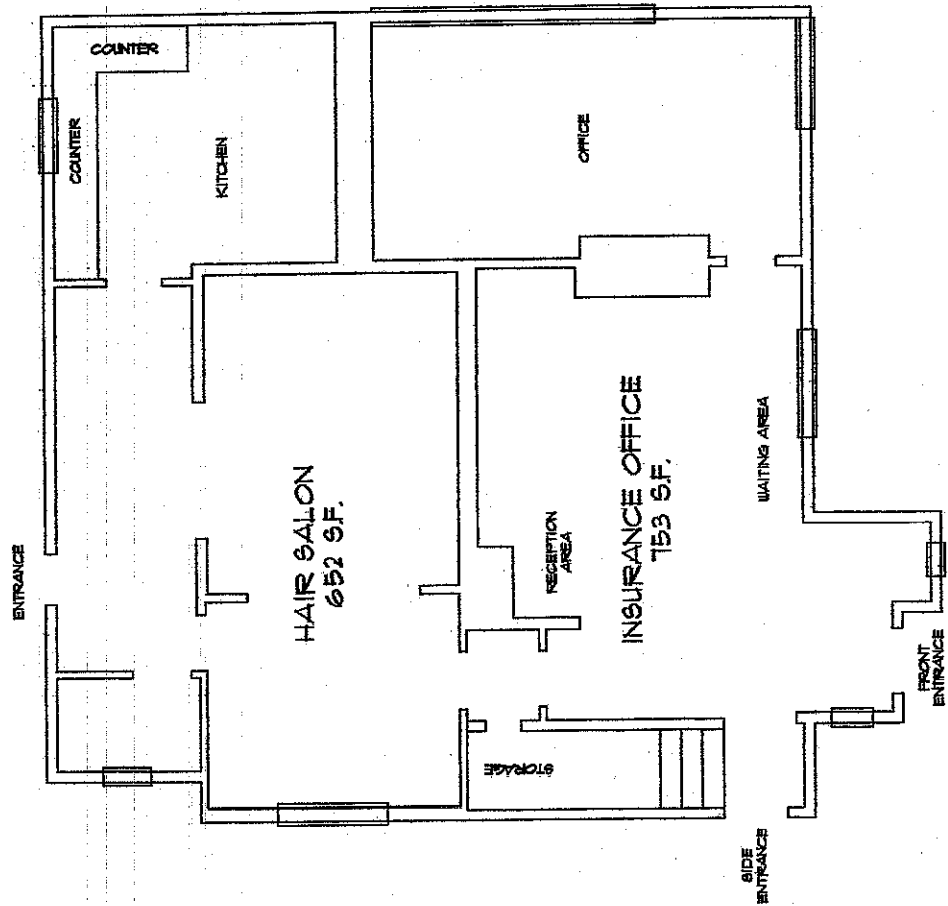
LANDPLAN ASSOCIATES  
P.O. BOX 10375  
ROCKVILLE, MD. 20849  
TEL: (301) 279-9980  
FAX: (301) 279-9981  
E-MAIL: LANDPLAN@SSOC.COM

VALENTINE GARDENS  
PARCEL 837  
CITY OF GAITHERSBURG, 9TH DISTRICT  
MONTGOMERY COUNTY, MARYLAND

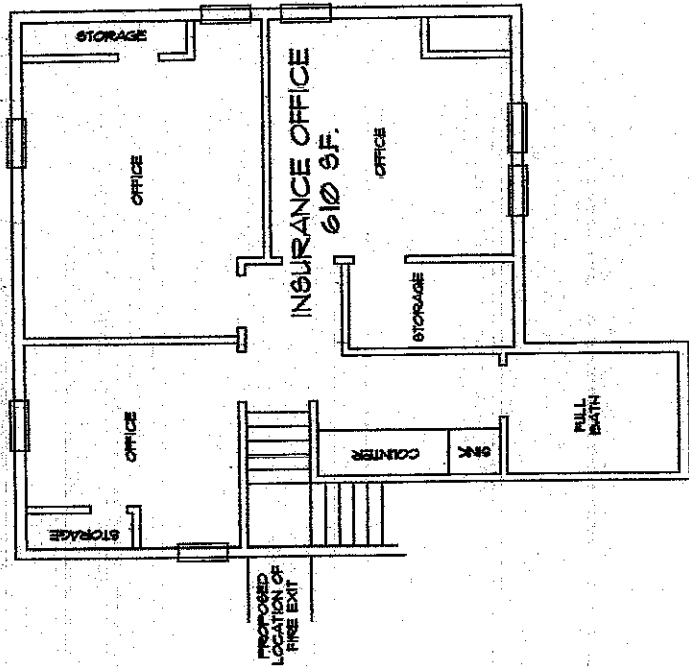
OWNERS/DEVELOPERS:  
MONICA K. PACHECO & JULIO PRADO  
525 S. FREDERICK AVE.  
GAITHERSBURG, MD. 20877  
TEL: (301) 330-6560

EXISTING FLOOR PLAN

Description	Quantity	Unit
...	...	...

[illegible]

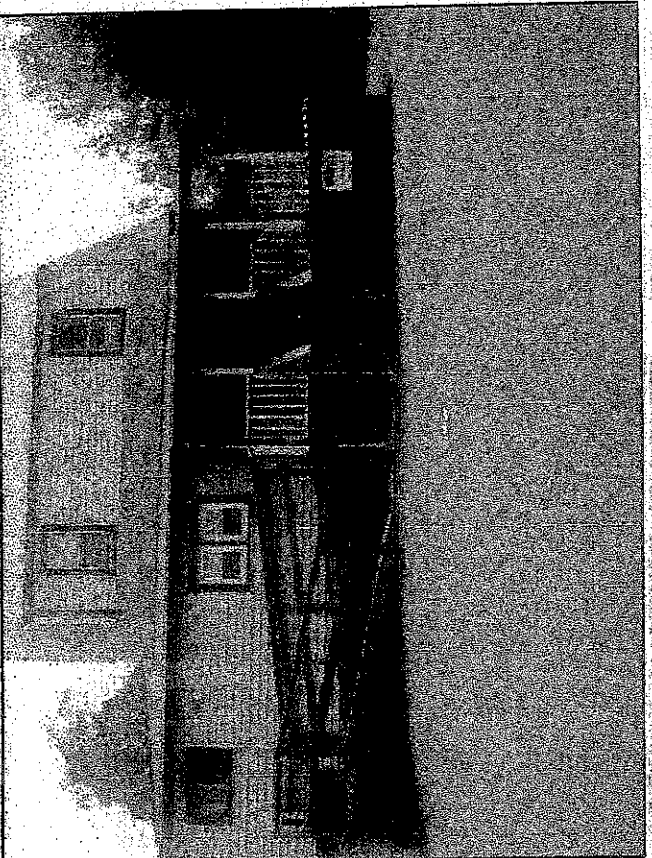
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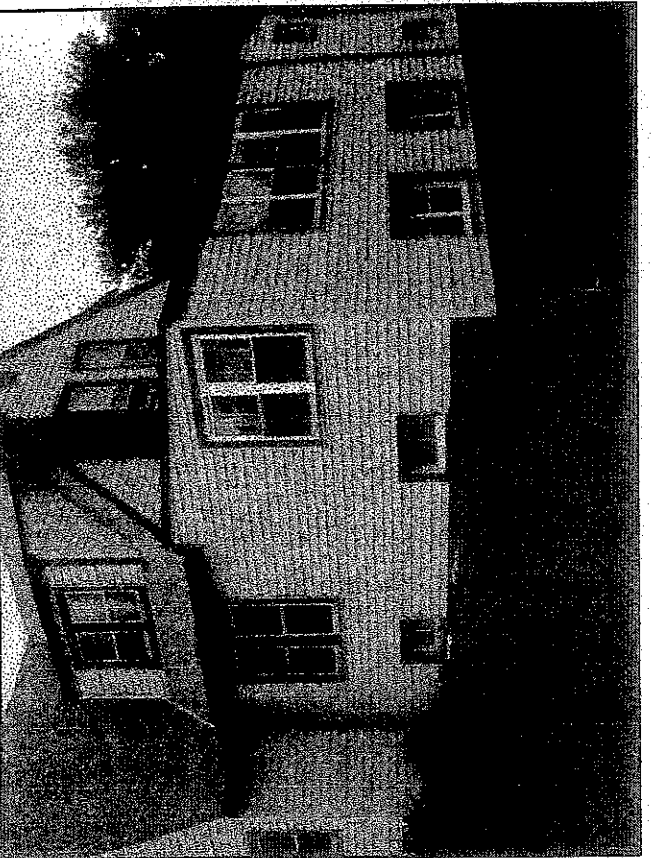
ROOT FLOUNDER

EXISTING FLOOR PLAN  
SCALE: 1/4" = 1'

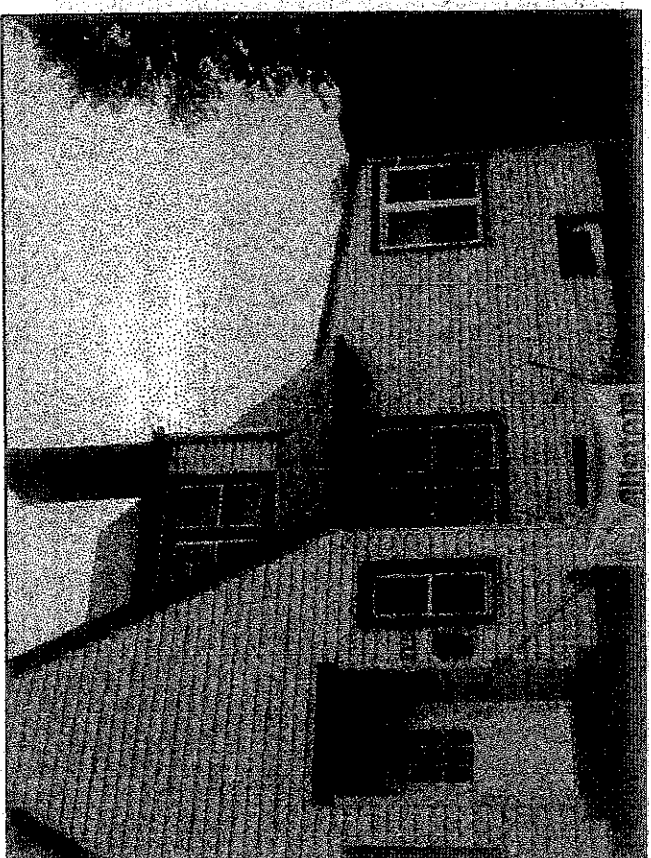
E-MAIL: LANDPLANASSOC@CS.COM TEL: (301) 279-9990 FAX: (301) 279-9991 P.O. BOX 10375 ROCKVILLE, MD. 20848		LANDPLAN ASSOCIATES SHEET NO. 5 Project No. 02-136	
CITY OF GAITHERSBURG, 8TH DISTRICT MONTGOMERY COUNTY, MARYLAND PARCEL 837 VALENTINE GARDENS		OWNERS/DEVELOPERS: MONICA K. PACHECO & JULIO PRADO 525 S. FREDERICK AVE. GAITHERSBURG, MD. 20877 TEL: (301) 330-6580	
EXISTING BUILDING ELEVATIONS		REVISIONS No. Date Description	
M.M. CADD Prepared by: _____ Approved by: _____ Date: JUNE 2002		Description	



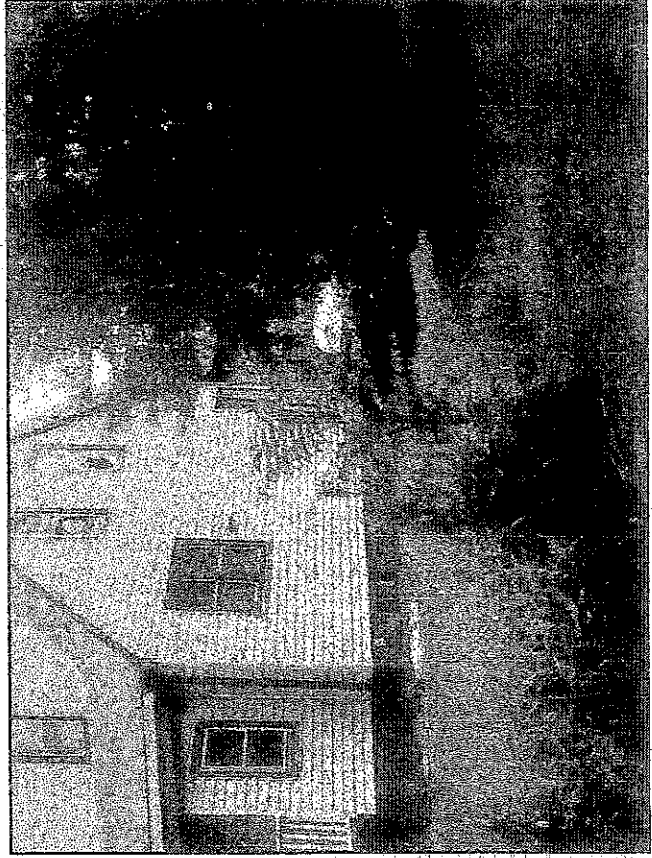
REAR ELEVATION



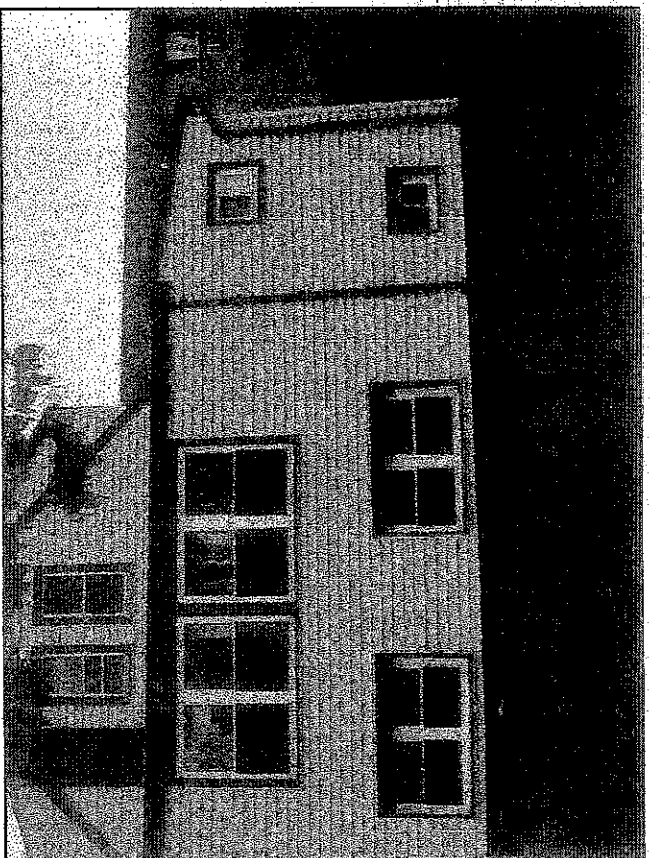
FRONT ELEVATION



FRONT ELEVATION



NORTH SIDE ELEVATION



SOUTH SIDE ELEVATION

- NOTES:
1. NO INTERIOR OR EXTERIOR MODIFICATIONS PROPOSED.
  2. BUILDING HEIGHT TO 2ND. FLOOR = 11.5 FT.
  3. BUILDING HEIGHT TO ROOF PEAK = 24.9 FT.